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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
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14 QUY TRUONG, an individual,
15 Plaintiff,

16 vs.

17 GOLD EDA PROPERTIES, LLC, a
18 limited liability company
19 Defendants.
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Case No.: 8:23-cv-1107

COMPLAINT FOR

**(1) VIOLATION OF THE UNRUH
CIVIL RIGHTS ACT
(CALIFORNIA CIVIL CODE
§§ 51, 52);**

**(2) VIOLATIONS OF THE
AMERICANS WITH
DISABILITIES ACT OF 1990**

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I.
SUMMARY

1. This is a civil rights action by plaintiff Quy Truong (“Plaintiff”) for discrimination at the building, structure, facility, complex, property, land, development, and/or surrounding business complex bearing the legal address of 941 S Glendora Ave, West Covina, CA 91790 (APN 8469-019-017) Los Angeles County and 935 S Glendora Ave, West Covina, CA 91790-4205 (APN 8469-019-016) (the “Property”). Plaintiff is often in the area for dining and entertainment as he lives approximately 20 minutes from the Property. On this particular occasion he desired to visit the “Krua Thai” restaurant located on the Property.

2. Plaintiff seeks damages, injunctive and declaratory relief, attorney’s fees and costs pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101, et seq.) and related California statutes¹ against Defendant, the owner of the Property Gold Eda Properties LLC (“Defendant”).

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II.
JURISDICTION

3. This Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1343 for ADA claims.

4. Supplemental jurisdiction for claims brought under parallel California law – arising from the same nucleus of operative facts – is predicated on 28 U.S.C § 1367.

5. Plaintiff’s claims are authorized by 28 U.S.C. §§ 2201 and 2202.

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III.
VENUE

6. All actions complained of herein take place within the jurisdiction of the United States District Court, Central District of California, and venue is invoked

¹ Plaintiff is not currently asserting a cause of action under California Civil Code § 55, but may amend his complaint at a later time upon discovery of facts which give rise to such a claim.

1 pursuant to 28 U.S.C. § 1391(b), (c).

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3 **IV.**
4 **PARTIES**

5 **7.** On information and belief, Plaintiff alleges that Defendant is or was at
6 the time of the incident, the owner, operator, lessor and/or lessee of the Property, and
7 consists of a person (or persons), firm, company, and/or corporation.

8 **8.** Plaintiff suffers from spina bifida and as a result is unable to walk or
9 stand without the use of a wheelchair and needs a wheelchair at all times when
10 traveling in public. Plaintiff is “physically disabled” as defined by all applicable
11 California and United States laws, and a member of the public whose rights are
12 protected by these laws. Plaintiff is a resident of Orange County, California. Plaintiff
13 is not a high frequency litigant as that term is defined under California Code of Civil
14 Procedure § 425.55. In the twelve (12) months prior to the filing of this lawsuit,
15 Plaintiff filed five (5) other accessibility complaints.

16 **V.**
17 **FACTS**

18 **9.** On or about May 6, 2023, Plaintiff desired to patronize the Property. On
19 this particular visit, he desired to patronize the “Krua Thai” restaurant operating at the
20 Property. The Property is a sales or retail establishment, open to the public, which is
21 intended for nonresidential use and whose operation affects commerce.

22 **10.** Plaintiff visited the Property and encountered barriers (both physical and
23 intangible) that interfered with – if not outright denied – Plaintiff’s ability to use and
24 enjoy the goods, services, privileges and accommodations offered at the facility. To
25 the extent known by Plaintiff, the barriers at the Property included, but are not limited
26 to the following:

27 a. Parking spaces designated as accessible and accompanying access aisles
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1 have slopes and/or cross slopes that exceed 2.0%. Without a level
2 parking space, it is difficult for Plaintiff to unload/transfer from a vehicle
3 as his wheelchair rolls.

- 4 b. To access the sidewalks and stores, Plaintiff must traverse up a built-up
5 curb ramp that is too steep. To the extent that the curb ramp is intended
6 to be a ramp, it does not have the necessary railings for Plaintiff to safely
7 maneuver up and down.
- 8 c. Accessible parking spaces are not properly marked and maintained. For
9 example, pavement marking is severely faded making it difficult for
10 Plaintiff to determine which spaces will accommodate Plaintiff's
11 disability. Additionally, there is no vertical signage accompanying
12 accessible parking spaces. The lack of required vertical signage *and* the
13 faded pavement markings make it difficult for Plaintiff to determine
14 which spaces are intended to be for accessible parking. Moreover, this
15 ambiguity makes it more likely that persons who are not disabled will
16 park in such spaces thus removing the amount of accessible spaces
17 available for Plaintiff's use.
- 18 d. Accessible parking spaces do not lead to accessible pathways. Without
19 accessible pathways that are of compliant width and slope, Plaintiff
20 cannot comfortably and safely travel throughout the Property.

21 **11.** These barriers to access are listed without prejudice to Plaintiff citing
22 additional barriers to access after inspection by Plaintiff's access consultant, per the
23 9th Circuits standing standards under *Doran v. 7-Eleven, Inc.* 524 F.3d 1034 (9th Cir.
24 2008). These barriers prevented Plaintiff from enjoying full and equal access to the
25 Property.

26 **12.** Plaintiff experienced difficulty, discomfort and embarrassment from the
27 accessible barriers he encountered. Although he would like to visit the Property
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1 regardless of disability or medical condition:

2 All persons within the jurisdiction of this state are free and equal, and
3 no matter what their sex, race, color, religion, ancestry, national
4 origin, disability, or medical condition are entitled to the full and
5 equal accommodations, advantages, facilities, privileges, or services
6 in all business establishments of every kind whatsoever. Cal. Civ.
7 Code § 51(b).

8 17. California Civil Code § 52 provides that the discrimination by Defendant
9 against Plaintiff on the basis of his disabilities constitutes a violation of the anti-
10 discrimination provisions of §§ 51 and 52.

11 18. Defendant's discrimination constitutes a separate and distinct violation of
12 California Civil Code § 52 which provides that:

13 Whoever denies, aids or incites a denial, or makes any discrimination
14 or distinction contrary to section 51, 51.5 or 51.6 is liable for each and
15 every offense for the actual damages, and any amount that may be
16 determined by a jury, or a court sitting without a jury, up to a
17 maximum of three times the amount of actual damage but in no case
18 less than four thousand dollars (\$4,000) and any attorney's fees that
19 may be determined by the court in addition thereto, suffered by any
20 person denied the rights provided in Section 51, 51.5 or 51.6.

21 19. Plaintiff continues to be deterred from visiting the Subject Property based
22 upon the existence of the accessible barriers. In addition to the occurrence in May
23 2023, Plaintiff is entitled to \$4,000.00 in statutory damages for each additional
24 occurrence of discrimination under California Civil Code § 52.

25 20. Any violation of the Americans with Disabilities Act of 1990 (as pled in
26 the Third Cause of Action) constitutes a violation of California Civil Code § 51(f)
27 thus independently justifying an award of damages and injunctive relief pursuant to
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1 California law. Per § 51(f), “[a] violation of the right of any individual under the
2 Americans with Disabilities Act of 1990 ... shall also constitute a violation of this
3 section.”

4 21. The actions and omissions of Defendant as herein alleged constitute a
5 denial of access to and use of the described public facilities by physically disabled
6 persons within the meaning of California Civil Code §§ 51 and 52. As a proximate
7 result of Defendant’s action and omissions Defendant has discriminated against
8 Plaintiff in a violation of Civil Code §§ 51 and 51.

9 **VII.**

10 **SECOND CAUSE OF ACTION: VIOLATION OF THE AMERICANS WITH**
11 **DISABILITIES ACT OF 1990 (42 USC §§ 12101 *et seq.*)**

12 22. Plaintiff incorporates the allegations contained in paragraphs 1 through
13 21 for this claim and incorporates them herein.

14 23. As part of the Americans with Disabilities Act of 1990 (“ADA”),
15 Congress passed “Title III – Public Accommodations and Services Operated by
16 Private Entities.” 42 U.S.C. § 12181 *et seq.* The Property is one of the “private
17 entities” which are considered “public accommodations” for purposes of this title,
18 which includes any “restaurant, bar, or other sales or rental establishment serving food
19 or drink.” § 301(7)(B).

20 24. The ADA states that “[n]o individual shall be discriminated against on
21 the basis of disability in the full and equal enjoyment of the goods, services, facilities,
22 privileges, advantages, or accommodations of any place of public accommodation by
23 any person who owns, leases, or leases to, or operates a place of public
24 accommodation.” 42 U.S.C. § 12182.

25 25. The acts and omissions of Defendant set forth herein were in violation of
26 Plaintiff’s rights under the ADA and the regulations promulgated thereunder, 28 CFR
27 Part 36 *et seq.*
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1 26. On information and belief, Plaintiff alleges that the Property was
2 constructed after January 26, 1992.

3 27. On information and belief, Plaintiff alleges that the removal of each of
4 the barriers complained of by Plaintiff as hereinabove alleged, were at all times herein
5 mentioned "readily achievable" under the standards §§ 301 and 302 of the ADA. As
6 noted hereinabove, removal of each and every one of the architectural barriers
7 complained of herein were also required under California law. Further, on information
8 and belief, alterations, structural repairs or additions since January 26, 1993 have also
9 independently triggered requirements for removal of barriers to access for disabled
10 persons per § 303 of the ADA. In the event that removal of any barrier is found to be
11 "not readily achievable," Defendant still violated the ADA, per § 302(b)(2)(A)(v) by
12 failing to provide all goods, services, privileges, advantages and accommodations
13 through alternative methods that were readily achievable.

14 28. On information and belief, as of the date of Plaintiff's encounter at the
15 Property and as of the filing of this Complaint, the Defendant has denied and continue
16 to deny full and equal access to Plaintiff and to other disabled persons, including
17 wheelchair users, in other respects, which violate plaintiff's rights to full and equal
18 access and which discriminate against Plaintiff on the basis of his disability, thus
19 wrongfully denying to plaintiff the full and equal enjoyment of the goods, services,
20 facilities, privileges, advantages and accommodations, in violation of §§ 302 and 303
21 of the ADA. 42 USC §§ 12182 and 12183.

22 29. On information and belief, Defendant has continued to violate the law
23 and deny the rights of Plaintiff and other disabled persons to access this public
24 accommodation since on or before Plaintiff's encounters, as previously noted.
25 Pursuant to the ADA, § 308, 42 USC 12188 *et seq.*, Plaintiff is entitled to the
26 remedies and procedures set forth in § 204(a) of the Civil Rights Act of 1964, 42 USC
27 2000(a)-3(a), as Plaintiff is being subjected to discrimination on the basis of disability
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1 in violation of the ADA or has reasonable grounds for believing that he is about to be
2 subjected to discrimination. Pursuant to § 308(a)(2), "In cases of violations of § 302(b)
3)(2)(A)(iv) and § 303(a) ... injunctive relief shall include an order to alter facilities to
4 make such facilities readily accessible to and usable by individuals with disabilities to
5 the extent required by this title."

6 30. Plaintiff seeks relief pursuant to remedies set forth in § 204(a) of the Civil
7 Rights Act of 1964, 42 USC 2000(a)-3(a), and pursuant to Federal Regulations
8 adopted to implement the Americans with Disabilities Act of 1990. Plaintiff is a
9 qualified disabled person for purposes of § 308(a) of the ADA who is being subjected
10 to discrimination on the basis of disability in violation of Title III and who has
11 reasonable grounds for believing he will be subjected to such discrimination each time
12 that he may attempt to use the property and premises.

13 **PRAYER**

14 WHEREFORE, Plaintiff prays that this court award damages and provide relief
15 as follows:

16 1. Issue a preliminary and permanent injunction directing Defendant as current
17 owners, operators, lessors, and/or lessees of the Property to modify the above
18 described Property and related facilities so that each provides full and equal access to
19 all persons, including but not limited to persons with physical disabilities who use
20 wheelchairs, and issue a preliminary and permanent injunction directing Defendant to
21 provide and maintain facilities usable by Plaintiff and similarly situated persons with
22 disabilities, and which provide full and equal access, as required by law, including
23 appropriate changes in policy;

24 2. Retain jurisdiction over the Defendant until such time as the Court is satisfied
25 that Defendant's unlawful policies, practices, acts and omissions, and maintenance of
26 inaccessible public facilities as complained of herein no longer occur, and can not
27 recur;
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1 3. Award to Plaintiff statutory damages of \$4,000 for each occurrence of
2 deterrence or discrimination experienced by Plaintiff until a final judgment is rendered
3 in this case, all according to proof;

4 4. Award to Plaintiff all appropriate damages, including but not limited to
5 statutory damages, general damages and treble damages in amounts within the
6 jurisdiction of this Court, all according to proof;

7 5. Award to Plaintiff all reasonable statutory attorney fees, litigation expenses, and
8 costs of this proceeding as provided by law;

9 6. Award to Plaintiff prejudgment interest pursuant to California Civil 17 Code§
10 3291;

11 7. Grant such other and further relief as this Court may deem just and proper.
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14 ASCENSION LAW GROUP, PC

15 DATE: June 21, 2023

16 /s/Pamela Tsao

17 Pamela Tsao, attorney for Plaintiff

18 QUY TRUONG
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury for all claims for which a jury is permitted.

ASCENSION LAW GROUP, PC

DATE: June 21, 2023

_____/s/ Pamela Tsao

Pamela Tsao, attorney for Plaintiff

QUY TRUONG